

## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO	). FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,903	09/18/2003	Steven P. Trainoff	WTC0303	7011
24378	7590 09/01/2006		EXAMINER	
WYATT TECHNOLOGY COPORATION PO BOX 3003			OCHOA, JUAN CARLOS	
SANTA BARBARA, CA 93130			ART UNIT	PAPER NUMBER
			2123	
			DATE MAILED: 00/01/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
Office Action Comments	10/665,903	TRAINOFF, STEVEN P.					
Office Action Summary	Examiner	Art Unit					
	Juan C. Ochoa	2123					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status							
1) Responsive to communication(s) filed on 18 Se	entember 2003.						
	action is non-final.						
	<i>,</i> —						
	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims							
4)⊠ Claim(s) <u>1-18</u> is/are pending in the application.							
4a) Of the above claim(s) is/are withdrawn from consideration.							
5) Claim(s) is/are allowed.							
6) Claim(s) is/are rejected.							
7) Claim(s) is/are objected to.							
	8) Claim(s) 1-18 are subjected to:						
Olaim(3) 1-10 are subject to restriction and/or election requirement.							
Application Papers							
9) The specification is objected to by the Examiner.							
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:							
<ol> <li>Certified copies of the priority documents have been received.</li> </ol>							
2. Certified copies of the priority documents have been received in Application No							
3. Copies of the certified copies of the priority documents have been received in this National Stage							
application from the International Bureau (PCT Rule 17.2(a)).							
* See the attached detailed Office action for a list of the certified copies not received.							
Attachment(s)							
1) Notice of References Cited (PTO-892)	4) Interview Summary						
Notice of Draftsperson's Patent Drawing Review (PTO-948)     Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	Paper No(s)/Mail Da 5) Notice of Informal P	atent Application (PTO-152)					
Paper No(s)/Mail Date	6) Other:						

Application/Control Number: 10/665,903 Page 2

Art Unit: 2123

## Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

 Claims 1–10 and 18, drawn to Modeling By Mathematical Expression, classified in class 703, subclass 2.

 Claims 11–17, drawn to Separation via Chromatography, classified in class 210, subclass 198.2.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because optimal/best fit parameters of broadening model of Group I may be used in a chromatographic separation method different than the method of Group II. The subcombination has separate utility such as use of optimal/best fit parameters of a broadening model obtained via a method different than the method of Group I.
- 3. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Application/Control Number: 10/665,903 Page 3

Art Unit: 2123

4. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

- 5. A telephone call was made to Mr. Philip Wyatt to request an oral election to the above restriction requirement, but did not result in an election being made.
- 6. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.
- 7. The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.
- 8. Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Application/Control Number: 10/665,903 Page 4

Art Unit: 2123

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juan C. Ochoa whose telephone number is (571) 272-2625. The examiner can normally be reached on 7:30AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez can be reached on (571) 272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

\*\* AD 8/28/06

PAUL RODRIGUEZ PAUL RODRIGUEZ PATENT EXAMINER SUPERVISORY PATENTER 2100 TECHNOLOGY CENTER 2100